

LAWRENCE A. ORGAN (SBN 175503)
larry@civilrightsca.com

NAVRUZ AVLONI (SBN 279556)
navruz@civilrightsca.com

CIMONE A. NUNLEY (SBN 326915)
cimone@civilrightsca.com

**CALIFORNIA CIVIL RIGHTS LAW
GROUP**

332 San Anselmo Avenue
San Anselmo, California 94960
Telephone: (415)-453-7352
Facsimile: (415)-785-7352

J. BERNARD ALEXANDER (SBN 128307)

ALEXANDER MORRISON + FEHR LLP

1900 Avenue of the Stars, Suite 900
Los Angeles, California 90067
Telephone: (310) 394-0888
Facsimile: (310) 394-0811

Attorneys for Plaintiff OWEN DIAZ

MICHAEL RUBIN (SBN 80618)

mrubin@altber.com

JONATHAN ROSENTHAL (SBN 329638)

jrosenthal@altber.com

ALTSHULER BERZON LLP

177 Post Street, Suite 300
San Francisco, California 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DEMETRIC DI-AZ, OWEN DIAZ, and
LAMAR PATTERSON,

Plaintiffs,

v.

TESLA, INC. dba TESLA MOTORS, INC.;
CITISTAFF SOLUTIONS, INC.; WEST
VALLEY STAFFING GROUP;
CHARTWELL STAFFING SERVICES, INC.;
and DOES 1-50, inclusive,

Defendants.

Case No. 3:17-cv-06748-WHO

**ADMINISTRATIVE MOTION TO
EXTEND DEADLINE FOR ACCEPTING
OR REJECTING REMITTITUR
PENDING REQUEST FOR
INTERLOCUTORY REVIEW**

**ADMINISTRATIVE MOTION TO EXTEND DEADLINE PENDING RESOLUTION OF
REQUEST FOR INTERLOCUTORY REVIEW**

On April 13, 2022, this Court issued its Order on Post-Trial Motions, in which it denied Tesla's motion for judgment as a matter of law and granted in part and denied in part Tesla's motion for a new trial. *See* Dkt. No. 328. As relevant here, the Court denied Tesla's motion for a new trial but conditioned that denial on Plaintiff Owen Diaz's acceptance of a remittitur of total compensatory damages from \$6.9 million to \$1.5 million, and of punitive damages from \$130 million to \$13.5 million. *Id.* at 43. The Court stated that "Diaz shall file a notice on the docket within 30 days stating whether he accepts or rejects the remittitur (and a proposed amended judgment if he accepts it). At that point, I will, as appropriate, either enter an order granting a new trial on damages or enter a final, appealable order denying Tesla's motion and an amended judgment." *Id.* The 30-day deadline for accepting or rejecting the remittitur is May 13, 2022.

Concurrently with this administrative motion, Plaintiff Diaz is filing a motion requesting that the Court certify its Order on Post-Trial Motions for interlocutory review in the Ninth Circuit under 28 U.S.C. § 1292(b), so that Plaintiff Diaz may immediately appeal the Court's remittitur of compensatory damages based on jury awards in comparable cases. As explained in that motion, interlocutory review is appropriate at this juncture in the case and would enable both parties to appeal aspects of the Court's Post-Trial Order without first conducting a retrial on damages.

Therefore, to preserve the status quo and prevent Plaintiff's Section 1292(b) motion from becoming moot, Plaintiff requests that the Court grant an extension of the deadline for accepting or rejecting the remittitur until at least seven (7) days after a final certification decision is made, i.e., until the later of: (1) this Court's denial of Plaintiff's motion for Section 1292(b) certification; (2) this Court's grant of certification and the Ninth Circuit's denial of certification; or (3) this Court's and the Ninth Circuit's grant of certification and a Ninth Circuit ruling affirming the Post-Trial Order or reversing it only in part.

A proposed order accompanies this administrative motion. Tesla has not indicated whether it opposes this motion. *See* Rubin Decl. ¶ 4.

California Civil Rights Law Group

Alexander Morrison + Fehr LLP

Altshuler Berzon LLP

Dated: May 4, 2022

/s/ Michael Rubin

Lawrence A. Organ

Cimone A. Nunley

J. Bernard Alexander III

Michael Rubin

Jonathan Rosenthal

Attorneys for Plaintiff

OWEN DIAZ